

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

CHRISTINE BRYANT on behalf of herself )  
and all other persons similarly situated, known )  
and unknown, )  
  )  
Plaintiff,   ) Case No. 1:19-cv-06622  
  )  
vs.    ) Honorable Virginia M. Kendall  
  )  
COMPASS GROUP USA, INC.                           )  
  )  
Defendant.   )

**NOTICE OF CONSTITUTIONAL CHALLENGE**

Defendant Compass Group USA, Inc. (“Compass Group”), through its undersigned counsel and pursuant to 28 U.S.C. § 2403(b) and Rule 5.1 of the Federal Rules of Civil Procedure, respectfully submits this Notice of Constitutional Challenge. Compass Group’s Answer to First Amended Class Action Complaint (“Answer”) [ECF No. 58], asserts Affirmative Defenses that raise questions of the constitutionality of the Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), on the grounds that: (a) it is impermissible special legislation that discriminates in favor of public entities and employers, private entities that are public contractors, and certain financial institutions, thereby limiting the rights of those entities’ employees and customers, while imposing significant burdens, increased costs and potential liability on other classes of employers or entities, thereby violating Article IV, Section 13 of the Illinois Constitution; and (b) any award of statutory and/or punitive damages would be grossly disproportionate to any actual injury or harm and would therefore deny Compass Group’s rights under the Due Process and Excessive Fines Clauses of the United States Constitution, and that BIPA, particularly as applied to class actions, imposes liabilities, damages, penalties, or fines that are so excessive, severe, and oppressive as to be obviously unreasonable and wholly

disproportionate to the offense of allowing individuals to utilize finger scans for making purchases from vending machines, thereby violating the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

Undersigned counsel has sent this Notice and the Answer to Illinois Attorney General Kwame Raoul via Certified US Mail.

Dated: December 30, 2020

Respectfully submitted,

COMPASS GROUP USA, INC.

By: /s/ Joseph C. Wylie II  
One of Its Attorneys

Joseph C. Wylie II  
Molly K. McGinley  
Kenn Brotman  
K&L GATES LLP  
70 West Madison Street, Suite 3300  
Chicago, IL 60602-4207  
Telephone: (312) 372-1121  
Facsimile: (312) 827-8108  
[joseph.wylie@klgates.com](mailto:joseph.wylie@klgates.com)  
[molly.mcginley@klgates.com](mailto:molly.mcginley@klgates.com)  
[kenn.brotman@klgates.com](mailto:kenn.brotman@klgates.com)

**CERTIFICATE OF SERVICE**

This is to certify that on December 30, 2020, the foregoing was filed with the Clerk of Court using the CM/ECF system. The following counsel of record will receive notice via ECF and e-mail:

Douglas M. Werman ([dberman@flsalaw.com](mailto:dberman@flsalaw.com))  
Maureen A. Salas ([msalas@flsalaw.com](mailto:msalas@flsalaw.com))  
Zachary C. Flowerree ([zflowerree@flsalaw.com](mailto:zflowerree@flsalaw.com))  
Sarah J. Arendt ([sarendt@flsalaw.com](mailto:sarendt@flsalaw.com))  
WERMAN SALAS P.C.  
77 West Washington, Suite 1402  
Chicago, IL 60602  
Telephone: 312-419-1008

*Attorneys for Plaintiffs*

In addition, the foregoing was sent via U.S. Certified Mail to the following third-party:

Attorney General Kwame Raoul  
Chicago Main Office  
100 West Randolph Street  
Chicago, Illinois 60601

*s/Joseph C. Wylie II*